

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JOHN DILLARD, et al.,

Plaintiffs,

v.

TOWN OF ORRVILLE,

Defendant.

)
)
)
)
)
)
)
)
)
)

CASE NO. 2:87-CV-1270

MOTION TO DISMISS

The Town of Orrville, defendant in this action, by and through the undersigned liaison counsel, moves to dismiss this action in its entirety for the following reasons:

1. In a Consent Decree and Order entered on May 2, 1989, that has applied to this day, this Court directed, among other things, that the Town Council consist of 5 members elected at-large, without designated or numbered places, and with the 5 candidates receiving the most votes being elected and each voter casting no more than two one votes.

2. In Act No. 2006-252, the Alabama Legislature provided a state-law basis for the remedial order entered in this case. The Legislature further provided that the size of the Town Council, its method of election, or both, can be changed by general or local law in the future. Act No. 2006-252 was precleared on July 19, 2006, and is therefore effective.

3. In the past, federal court orders, some entered by consent and some entered without the consent of the defendants, changing the size of the local governing body, its method of election, or both, have been challenged on the ground that they may

have exceeded the court's remedial powers, conflicted with state law or both. With respect to the Town of Orrville, Act No. 2006-252 moots any such contention.

4. The dismissal of this case will leave the limited voting scheme in place.

5. The Dillard Plaintiffs have no objection to the dismissal of this action and do not claim an attorneys' fee from this defendant.

6. A proposed Consent Final Judgment is attached to this Motion as Exhibit 1 and, pursuant to Order No. 689 (Aug. 21, 2006) in *Dillard v. Crenshaw County*, an electronic copy will be transmitted to the court as an attachment to an e-mail message by liaison counsel once he receives notice that the Motion has been filed.

WHEREFORE this case should be dismissed.

Respectfully submitted,

TROY KING (KIN047)
ATTORNEY GENERAL
BY:

s/ John J. Park, Jr.
John J. Park, Jr. Bar Number: (PAR041)
Assistant Attorney General
Office of the Attorney General
11 S. Union Street
Montgomery, AL 36130-0152
Telephone: (334) 242-7300
Fax: (334) 353-8440
E-mail: jpark@ago.state.al.us

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of October, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following (or by U.S. Mail to the non CM/ECF participants):

James U. Blacksher, Esq.
P.O. Box 636
Birmingham, AL 35201-0636

David Boyd
Dorman Walker
P. O. Box 78
Montgomery, AL 36101

John Pilcher
Pilcher & Pilcher
P.O. Box 1250

Selma, AL 36702-1250

Edward Still
2112 11th Avenue South
Suite 201
Birmingham, AL 35205

Norman J. Chachkin, Esq.
NAACP Legal Defense & Ed. Fund, Inc.
99 Hudson Street, 16th Floor
New York, NY 10013

s/ John J. Park, Jr.

John J. Park, Jr. Bar Number: (PAR041)
Assistant Attorney General
Office of the Attorney General
11 S. Union Street
Montgomery, AL 36130-0152
Telephone: (334) 242-7300
Fax: (334) 353-8440
E-mail: jpark@ago.state.al.us